

– DRAFT –

"A continuation-in-part is an application filed during the lifetime of an earlier nonprovisional application, repeating some substantial portion or all of the earlier nonprovisional application and *adding matter not disclosed* in the said earlier nonprovisional application. (Emphasis in original; citation omitted.)

In Paperless Accounting, Inc. v. Bay Area Rapid Transmit System, 804 F.2d 659, 663, 231 USPQ 649, 652 (Fed. Cir. 1986), *cert. denied*, 480 U.S. 933 (1987), the Court noted the following policy considerations regarding continuation-in-part applications:

Law and policy liberally authorize the filing of c-i-p applications for a number of reasons, whether to enlarge the disclosure to include new technological information, thereby providing the public with knowledge of recent developments or improvements; or to enable more extensive prosecution or improved draftsmanship of specification or claims; or to provide a vehicle for prosecution of non-elected claims.

Applicant submits that there is clear continuity between the first filed design application and the later-filed utility application; this continuity is found in a comparison between the construction details shown in the design drawings with the tower construction shown in Figs. 1, 2, 6-8, and 10 of the utility application – the tower constructions shown in these drawings is essentially identical. Since inventorship has now been corrected to add the inventor of the design patent as a co-inventor of the utility patent, then the common inventive entity requirement for a continuation-in-part application is also met. Applicant therefore respectfully requests that the Examiner withdraw the rejection under 35 USC § 251 and permit this application to pass to issue.

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If the further prosecution of this application can be facilitated through a telephone interview between the Examiner and the undersigned, the Examiner is respectfully requested to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that the foregoing is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Assistant Commissioner of Patents, Washington D.C. 20231, this _____ day of May, 2001.

Edward Bradley